IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

WP(C).No. 26329 of 2007(H)

PETITIONER:

JOJO ANTONY, AGED 37 YEARS,
S/O ANTONY, GREENLAND FARMS,
KODUVELIPPADY, KOOVAPPADY P.O.,
ERNAKULAM DISTRICT.

BY ADV. SRI.G.RAJAGOPAL
SRI.THOMAS M.JACOB

RESPONDENTS:
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1. THE SUB INSPECTOR OF POLICE,
KODANAD POLICE STATION,
ERNAKULAM DISTRICT.

2. SUPERINTENDENT OF POLICE,
ALWAYE.

3. OKKAL GRAMA PANCHAYAT,
OKKAL P.O., ERNAKULAM DISTRICT-683 550
REPRESENTED BY ITS SECRETARY.

4. EMMANUEL, S/O ANTONY,
KANNOTH HOUSE, KODUVELIPADY,
KOOVAPPADY, ERNAKULAM DISTRICT.

5. MANI, ELAYIDAM HOUSE,
KODUVELIPADY, KOOVAPPADY,
ERNAKULAM DISTRICT.

6. KUMARAN, S/O AYYAPPAN,
AAVANIPILLYKUDIYIL HOUSE, KODUVELIPADY,
KOOVAPPADY, ERNAKULAM DISTRICT.

7. MANI @ UDAYAKUMAR,
S/O JANAKI, THOTTUPURAM HOUSE,
KODUVELIPADY, KOOVAPPADY, ERNAKULAM DISTRICT.

8. PREMAN, S/O JANAKI,
THOTTUPURAM HOUSE,
KODUVELIPADY, KOOVAPPADY, ERNAKULAM DISTRICT.

9. K.G.PANKAJAKSHAN,
S/O GOPALAN NAIR, KODUVELIL HOUSE,
KODUVELIPADY, KOOVAPPADY, ERNAKULAM DISTRICT.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.SIBY MATHEW
SRI.A.A.MOHAMMED NAZIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: True copy of the certificate dated 10-7-2007 issued by the Veterinary Surgeon, Veterinary Dispensary, Okkal to the petitioner.

Ext.P2: True copy of the application for licence dated 09.07.2007 submitted by the petitioner before the third respondent.

Ext.P3: True copy of the letter dated 03.08.2007 issued by the Medical Officer in charge of the Primary Health Centre Kodanad.

Ext.P4: True copy of the letter dated 25.07.2007 issued by the District Medical Officer, Ernakulam

Ext.P5: True copy of the letter dated 13.08.2007 submitted by the petitioner before the District Medical Officer

Ext.P6: True copy of the Decision No.11 dated 21.08.2007 of the third respondent.

Ext.P7: True copy of the completion certificate dated 8.8.2007 issued to the petitioner on completion of the Biogas plant.

Ext.P8: True copy of the letter dated 25.08.2007 submitted by the petitioner before the third respondent.

Ext.P9: True copy of the complaint dated 28.08.2007 submitted by the petitioner before the first respondent.

Ext.P10. True copy of the F.I.R No. 300/07 of Kodanad Police Station dated 28.08.2007.

Ext.P11: True copy of the representation dated 30.08.2007 submitted by the petitioner before the second respondent.

//True copy//

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K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 26329 OF 2007-H

Dated 12th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is running a livestock farm under the jurisdiction of Kodanad Police Station. It consists of a piggery also, apart from rearing of cows and goats. The petitioner does not have any licence from the local Panchayat for running it. So, he has submitted Ext.P2 application. The Panchayat moved the Medical Officer of the Primary Health Centre, Kodanad. The said officer issued Ext.P3 instructions to be implemented by the petitioner, which was followed by Ext.P4 letter issued by the District Medical Officer, containing the conditions which the petitioner has to implement for running the livestock farm. The petitioner submits, he has already submitted a letter before the D.M.O., undertaking to implement the directions in Ext.P4, a copy of which is produced as Ext.P5. The Panchayat considered the petitioner's application and by Ext.P6 resolution, granted 15 days time to him to implement the conditions imposed by the D.M.\O. The

petitioner has established a bio gas plant, it is submitted, as evident from Ext.P7. The petitioner claims, he has made all the facilities contemplated under Exts.P3 and P4 and informed of the same to the Panchayat by Ext.P8 communication. While so, on 28.8.2007, respondents 4 to 9 and their supporters caused obstruction to the road leading to the petitioner's farm, preventing him from taking out the farm products. So, he filed a complaint before the police, a copy of which is produced as Ext.P9. Before his return from the police station after filing the complaint, a mob of local people entered the farm and destroyed everything found there. So, immediately he lodged an information before the police about it, pursuant to which Ext.P10 crime was registered. According to him, the S.I of Police is not properly investigating the crime registered as per Ext.P10. Therefore, he has filed Ext.P11 representation before the District Superintendent of Police. In the said petition he also seeks police protection. Since the police failed to extend the protection prayed for, this writ petition is filed, seeking the following reliefs:

> "(i) Issue a writ of mandamus or such other writ, direction or order, commanding the first and second respondents to provide adequate protection to the life of the petitioner and his employees, to the property of the petitioner including the livestock in the farm run by the petitioner and to prevent any

illegal obstruction to the peaceful functioning of the farm by name Greenland Farms run by the petitioner;
(ii) Direct the second respondent to conduct investigation into the incidents which occurred in the farm of the petitioner namely Greenland Farms on 28.08.2007."

2. The 3rd respondent Panchayat has filed a counter affidavit, in which it is submitted that the petitioner does not have any licence to run the farm or the piggery. It is also submitted that the directions issued by the D.M.O have not, so far, been complied with. The party respondents would submit that now the piggery requires clearance from the Pollution Control Board also. The petitioner has not moved or obtained consent from the Pollution Control Board for the running of the piggery.

3. Heard the learned counsel on both sides. At the time of hearing the learned counsel for the petitioner pressed mainly two prayers. He prayed for the assistance of police to implement the directions issued by the D.M.O. He also prayed for a direction to the 2nd respondent District Superintendent of Police to properly investigate the crime registered as per Ext.P10.

4. The petitioner can run his farm only after getting the necessary statutory clearances and licences. Now, the running of the same is unauthorised. If the party respondents are entering the farm premises and

causing obstruction or destruction, the petitioner can move the competent civil court and seek appropriate reliefs. If the injunction issued by the civil court is violated, he has remedies for enforcing the same. In this jurisdiction, we are concerned only with the failure of duty from the part of the police. The police cannot be expected to stand guard to the farm of the petitioner. But, if any cognizable offence is reported, the police have to take prompt action. They have also a duty to prevent the commission of cognizable offences. If the petitioner alerts them about such incidents, the police shall look into the same and if the complaint is found to be genuine, take appropriate action in accordance with law. For the protection of his farm and for doing works there, the petitioner may move the competent civil court and obtain appropriate orders.

5. The second prayer of the petitioner to direct the D.S.P to investigate into the crime registered as per Ext.P10 is premature. Ext.P11 representation for the same is filed only on 30.8.2007. This writ petition is filed on 4.9.2007. So, the said prayer is declined.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/